

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

STATE OF WASHINGTON, et al.,

PLAINTIFFS,

v.

U.S. DEPARTMENT OF  
TRANSPORTATION et al.,

DEFENDANTS.

NO. 2:25-cv-00848

DECLARATION OF ADAM J.  
RUDER IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION

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ATTORNEY GENERAL OF WASHINGTON  
Environmental Protection Division  
800 Fifth Avenue STE 2000  
Seattle, WA 98104  
206-464-7744

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2 1. I, ADAM J. RUDER, declare under the penalty of perjury pursuant to 28 U.S.C.  
3 § 1746 that the foregoing is true and correct:  
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5 2. I am a resident of the State of New York. I am over the age of 18 and have  
6 personal knowledge of all the facts stated herein, except to those matters stated upon  
7 information and belief; as to those matters, I believe them to be true. If called as a witness, I  
8 could and would testify competently to the matters set forth below.

9 3. I am currently employed by the New York State Energy Research and  
10 Development Authority (NYSERDA) as Director of Clean Transportation. NYSERDA is a  
11 public benefit corporation that works to promote energy efficiency, renewable energy, and  
12 advanced energy technologies in New York. Governed by a 13-member Board, NYSERDA  
13 serves as the state's energy office, providing objective information and analysis, technical  
14 expertise, and support for energy policy development and planning in New York State.  
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16 4. As Director of Clean Transportation, I am responsible for managing the full  
17 range of transportation-related programs that NYSERDA administers, including research and  
18 development funding, programs supporting innovative demonstrations of new and emerging  
19 technologies, and rebate/incentive programs for electric vehicles (EVs) and EV charging  
20 stations. I also lead many of NYSERDA's efforts on developing clean transportation policies  
21 and directions for New York State, including published works such as the New York State  
22 Clean Transportation Roadmap published in 2022.  
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24 5. NYSERDA receives its funding for clean transportation activities from a variety  
25 of sources, including both federal funding and state funding. NYSERDA has applied for, and  
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1 been successful in obtaining, a number of competitive federal funding awards, and has  
2 partnered with other New York State agencies (including the New York State Department of  
3 Transportation) to administer federal formula funding. The federal funding that New York  
4 State was to receive from National Electric Vehicle Infrastructure (“NEVI”), approximately  
5 \$175.5 million, offers New Yorkers a larger opportunity to reduce pollution along highways in  
6 New York State than that available using state funds alone (approximately \$15 million).  
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8 6. NYSERDA relied and acted upon the FHWA’s statutory obligation to provide  
9 NEVI formula funding consistent with the Infrastructure Investment and Jobs Act (IIJA)’s  
10 requirements.

11 7. NYSERDA has specific responsibility for enabling the adoption of EVs among  
12 New York drivers. New York legislation has an established goal for 100 percent of new  
13 passenger car sales to be zero-emission vehicles (EVs and hydrogen fuel cell vehicles, which  
14 are not currently available for purchase in New York State) by 2035. The Public Service  
15 Commission and the New York State Department of Environmental Conservation have also  
16 authorized and provided funding for NYSERDA to implement programs to support the  
17 installation of EV charging stations.  
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19 8. In July 2024, NYSERDA and the New York State Department of  
20 Transportation (NYSDOT) entered into an agreement for NYSERDA to administer a portion  
21 of the NEVI Formula Program that had already been approved by FHWA to NYSDOT,  
22 pursuant to the IIJA. This included \$23,658,800 for Direct Current Fast Charging (DCFC)  
23 stations and \$1,178,200 for workforce development activities. A later amendment to the  
24 agreement, executed in December 2024, added \$31,350,000 for additional DCFC stations. The  
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1 agreement directed NYSERDA to select DCFC station projects through competitive  
2 solicitations.

3 9. NYSERDA issued its first competitive solicitation, Program Opportunity Notice  
4 (PON) 5865, in September 2024, offering \$21.5 million of the NEVI funds for proposals to  
5 develop DCFC stations along designated Alternative Fuel Corridors (AFCs) in New York  
6 State, focused on upstate New York areas north of and including Interstate 84. Proposals were  
7 received in December 2024. In December 2024, NYSERDA released a second solicitation  
8 (PON 5866) offering \$28.5 million in NEVI funds for DCFC stations in downstate New York,  
9 focused on the areas around New York City, Long Island, and the lower Hudson Valley, with  
10 submissions due March 18, 2025. The programs are intended to reduce the cost of purchasing  
11 and installing DCFC stations in New York State and ultimately increasing the availability of  
12 DCFC stations to consumers choosing to purchase and use EVs. NYSERDA has received  
13 proposals for both solicitations, issued award letters for PON 5865 and is preparing to issue  
14 award letters for PON 5866. NYSERDA is beginning to compile the required National  
15 Environmental Policy Act deliverables for selected projects for submission to FHWA.  
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17 10. On February 6, 2025, the FHWA notified States via letter that it had taken  
18 actions to “suspend” the NEVI Formula Program including revoking all prior approvals of  
19 NEVI Formula Program implementation plans (“NEVI Rescission Notice”).  
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21 11. Should FHWA NEVI funds remain unavailable, these projects will not be able  
22 to move forward, disrupting the business plans of the named and soon-to-be named awardees  
23 and causing unnecessary cost for planning and submitting applications, in addition to lost  
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1 economic activity throughout the State that would have been realized by the investment in the  
2 State's transportation infrastructure.

3 12. New York also has a rapidly growing population of EV drivers. The number of  
4 EVs registered in New York State has risen by 440 percent (from about 52,000 in July 2020 to  
5 about 281,000 in March 2025), while the number of DCFC charging ports has increased by  
6 only 290 percent (from about 560 to about 2,180). Failing to make available the funds to  
7 support increased DCFC availability at a similar pace undermines the consumer choice to  
8 purchase an EV, and may cause loss of use of the purchased vehicle.

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10 13. Many businesses seeking to participate in this infrastructure investment may  
11 choose to drop out of the program if the reinstatement of the availability of funds becomes  
12 protracted. Even a delay in approvals could have significant impacts on the projects. Their  
13 costs could rise and the amount they originally requested from NYSERDA and were awarded  
14 could be insufficient to move forward with their projects. If these projects do not go forward,  
15 more than \$30 million in pledged private investments, plus millions more in investments by  
16 local electric utilities, will not be made in New York, in addition to the \$50 million in federal  
17 funding that will not be spent in the State. These projects would collectively generate hundreds  
18 of jobs for electricians, construction workers, manufacturers, and other skilled laborers, and a  
19 loss of these projects would mean these jobs would never be created.

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22 14. NYSERDA has already seen a negative impact from the uncertainty caused by  
23 the suspension of funds and the rescission of plan approvals. NYSERDA received fewer  
24 proposals to PON 5866, which covered a geographic area that generally has a higher demand  
25 for DCFC stations and was expected to attract a large number of proposals, than it did for PON  
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1 5865. One reason for this is that PON 5865 was due in December 2024, before the NEVI  
2 Rescission Notice, resulting from federal executive actions, when there was no expectation of  
3 program delays. PON 5866 was due after funding freezes were announced, which may have  
4 caused potential applicants not to apply.

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6 15. If NYSERDA is unable to move forward with the awardees who were selected  
7 under PON 5865 and who will be selected under PON 5866, parties will likely be less willing  
8 to invest the time and resources to submit proposals in future opportunities.

9 16. More broadly, the suspension of funds and rescission of NEVI plan approvals  
10 will negatively impact New York State's ability to meet its EV adoption targets, as discussed  
11 above. Building EV charging stations to support this increase in EVs on the road is an  
12 important companion to the regulations that will ensure that New Yorkers are able to charge  
13 the vehicles they are purchasing.

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15 17. Many parts of New York State, especially the New York City metropolitan area,  
16 experience poor air quality, in large part due to internal combustion engine cars and trucks.  
17 EVs can play a major role in improving air quality in communities. Switching vehicles from  
18 internal combustion engine vehicles to EVs will have substantial health and air quality  
19 benefits, but drivers will only feel comfortable buying and driving EVs if there is sufficient  
20 charging infrastructure.  
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1 I declare under penalty of perjury under the laws of the United States that, to the best of  
2 my knowledge, the foregoing is true and correct.

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4 DATED this 1st day of May, 2025, at Albany, New York.

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6 Adam J. Ruder